

NO. UWY-CV15 6050025 S	:	SUPERIOR COURT
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DONNA L. SOTO, ADMINISTRATRIX	:	
OF THE ESTATE OF	:	COMPLEX LITIGATION
VICTORIA L. SOTO, ET AL	:	DOCKET
	:	
V.	:	AT WATERBURY
	:	
BUSHMASTER FIREARMS	:	
INTERNATIONAL, LLC, ET AL	:	AUGUST 13, 2021

**REPLY IN SUPPORT OF PLAINTIFFS' MOTION TO COMPEL**

Beginning in 2006 and continuing through 2012, Remington implemented a plan to dominate the firearms industry, driven by its parent company Cerberus. The goal was “creating the world’s leading firearms, ammunition and related products company;” the means was expansion “through the successful integration of four primary acquisitions (Bushmaster, Remington, DPMS and Marlin). Ex. A, Freedom Group SEC Prospectus, at 2.<sup>1</sup> By 2010, that dominance was real. Remington had “the ‘#1 commercial market positions across all of our major product categories in the United States,’ and was ‘the largest firearms and ammunition market globally.’” *Id.* at 1 (emphasis added). Remington held 48% of the entire commercial market for “modern sporting rifles,” the marketing euphemism given to modular AR-15 type assault rifles and their kin. *Id.* at 2. Net sales skyrocketed from 60.8 million in 2005 to 848.7 million in 2009. *Id.* at 44.

In the next phase of the plan, Remington would drive sales even higher by making marketing an organizational focus. As Remington put it, “***Increase Commercial Market Share through Marketing-Focused Organization.***” *Id.* at 8. Remington put together a “senior

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<sup>1</sup> During part of this period, Remington was known as Freedom Group. For the sake of simplicity, the plaintiffs refer to Freedom Group as Remington.

management team” with “substantial industry and related operational, sales and marketing and financial experience,” *id.* at 8, and implemented a “transition to a customer-focused sales and marketing organization,” *id.* at 2. It targeted long guns sales to “a younger demographic of users and those who like to customize or upgrade their firearms.” *Id.* at 5. [REDACTED]

[REDACTED] This was crucial because “sales and marketing optimization efforts” would “continue to expand” Remington’s “leading market position.” Ex. A, Prospectus at 8.

In light of the above, and as we describe below, we ask the Court to categorically reject Remington’s disingenuous portrayal of its marketing operations as threadbare. We are equally concerned with Remington’s apparent decision to itself categorize the scope of the discovery as narrow and to decide itself what is relevant, especially because the marketing effort described above is anything but narrow. Remington conflates a “narrow” legal theory with narrow discovery. There is no correlation between the two. As our Supreme Court noted, this case involves an evaluation of Remington’s “marketing schemes.” *Soto v. Bushmaster Firearms Int’l, LLC*, 331 Conn. 53, 106, *cert. denied*, 205 L. Ed. 2d 317 (2019). Those schemes were a centerpiece in Remington’s expansion plan. The plaintiffs are entitled to fully understand them.

“[T]he rules of discovery, by facilitating an intensive search for the truth through accuracy and fairness, provide procedural mechanisms designed to make a ‘trial less a game of blindman’s bluff and more a fair contest with the basic issues and facts disclosed to the fullest practical extent.’” *Picketts v. Int’l Playtex, Inc.*, 215 Conn. 490, 508 (1990) (quoting *United States v. Procter & Gamble Co.*, 356 U.S. 677, 682 (1958)). 2,194 unique emails is not “an intensive search for the truth through accuracy and fairness” – it is blindman’s bluff, and

Remington has put the blindfold on the families who are the plaintiffs in this case. Remington's marketing department communicated over email to develop assault rifle marketing campaigns, and the plaintiffs now have only a few of those emails. Remington has deliberately hidden the whole picture. The origination of Remington's marketing concepts, development of the concepts, market research about how Remington's target markets might receive the concepts, internal and external vetting of the concepts, approvals (including by legal and compliance), distribution agreements, and resulting metrics – were not produced.<sup>2</sup>

Over and over, the plaintiffs asked Remington to explain why it produced an average of roughly 300 emails per year in the agreed-upon discovery period, and Remington refused to answer. The Court advised Remington it must produce fairly: “[t]he obligation to act in good faith and provide documents within their knowledge, possession, or power **rests on the defendants....**” DN 316.00 (ordering regarding RFP 17) (emphasis added). Remington now tells us that it produced only those email communications from “the relatively small number of Remington marketing department employees who had responsibility for the marketing and promotion of AR-type rifles.” Remington knows its selection of so few custodians is unreasonable. Buried on page 23 of its Memorandum in Opposition is a concession that it plans to increase the number of custodians to be searched, **from 27 to 55**.

Searching so few custodians while maintaining “substantial” production is part of the problem, but Remington has also underproduced by choosing search terms that do not fairly

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<sup>2</sup> After Remington's objection to the plaintiffs' Motion to Compel was filed, the Court directed the parties to meet and confer concerning the issues raised and to file the results of their meet and confer by August 20. The plaintiffs have considered this order and tailored the Reply accordingly. The main issue in dispute, and the issue the plaintiffs view as least likely to be resolved by the parties' meet and confer is Remington's non-production of emails. That is the focus of this Reply.

capture the requested discovery. The result is the impossibly low number of emails Remington produced. To use just one example, Scott Blackwell – 2006-07 Bushmaster President and Chief Sales and Marketing Officer; 2007-09 Remington President of Global Sales and Marketing; 2009-12 Remington Chief Sales Officer; 2012-14 Remington President – has an inexplicable 195 emails over six years. DN 355 at 23. Remington takes the position that this indefensibly low e-mail count and others “more than demonstrate[] the sufficiency of Remington’s ongoing production.” *Id.* On the contrary, this count shows the insufficiency of Remington’s production.

Remington’s underproduction of emails is not a good faith oversight. It is intentional and strategic, intended to keep the plaintiffs, the Court, and the public in the dark for as long as possible. In producing the 18,459 cartoon images and 15,825 image files, Remington “processed and produced all images it downloaded from the social media sites.” DN 355, at 6. It did not limit the production of meaningless cartoons and go-karting image files based on the supposed “narrowness” of the plaintiffs’ legal theory. Instead, it used the collection and production of these images to support the transparent fiction of a large, “substantial” production. But with emails – materials that contain admissions by its own leadership and marketing department – it created an unreasonably small search pool and then ran unreasonably restrictive searches within that pool, in an effort to avoid substantive disclosures.

## **I. REMINGTON’S EMAIL PRODUCTION IS INSUBSTANTIAL AND INADEQUATE**

The plaintiffs served three sets of RFPs over approximately five years. Those RFPs sought documents relating to, among many other things: market research concerning AR-15 style rifles; communications with advertising companies; complaints Remington received by government entities or consumers; and creative briefs, marketing and advertising campaigns, or advertisement

designs (including drafts and final copies). Objections to those RFPs have been resolved. Production in response to those RFPs should have yielded hundreds of thousands of emails, but only 2,194 unique emails were produced. These facts alone establish inadequate compliance.

Remington's sole record-based justification for this shockingly low number of emails is one misleading deposition citation, DN 355.00 at 21, which Remington asserts demonstrates that its marketing personnel tended to communicate via telephone or face-to-face. *Id.* This testimony describes Mr. Tyler's communication with his Windham, Maine based team *before* Cerberus's April 2006 acquisition of Bushmaster, and *before* the relevant time frame for the RFP responses. *See* Ex. B, Tyler Dep. (68:4-7, 68:10-12) (describing "holler[ing]" at his team, "who were only feet away" in the context of a line of questions about "old Bushmaster"); *see also id.* (41:3-8) (defining "old Bushmaster" as the "pre-Cerberus acquisition" Bushmaster). In the relevant time period, *after* Cerberus acquired Bushmaster, Mr. Tyler's mode of communication was about "50 percent e-mail." Ex. B, Tyler Dep. (69:12-24).<sup>3</sup>

There is no dispute, moreover, that as Cerberus bought up gun companies (including Bushmaster) the resulting new conglomerate's marketing and sales functions were spread between Madison, North Carolina (Remington headquarters); Windham, ME (Bushmaster); Ilion, NY (Remington manufacturing); St. Cloud, MN (DPMS); not to mention Tulsa, OK (home to Remington's marketer BroCo); Raleigh, NC (home to Remington's marketer Retail Sports

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<sup>3</sup> Mr. Tyler also testified that Remington's marketing department did not use any form of intra-office messaging programs. Ex. B, Tyler Dep. (129:10-12) ("Q Were there any like message boards or intra-office, yeah, message type programs? A No.") Corporate email was their sole electronic means of communication. *Id.*

Marketing); and Detroit, MI (home to Campbell Ewald, yet another Remington marketer). Like Mr. Tyler's testimony, this geographic spread points to one question: where are the emails?

Produced documents raise that question too. One example of the insufficiency of production is shown in the launch proposal for a new assault rifle. Brothers & Company ("BroCo") "provided marketing services for BFI "during the 2006-13 stated time period." Ex. C, Rem. Interrog. No. 3 Response.<sup>4</sup> BroCo sends a proposal for the launch of a new Bushmaster assault rifle. Ex. D, REM-0011352; Ex. E, REM-0011355-66 (excerpted). The launch would begin at the SHOT show, a massive firearms exhibition attended by law enforcement and the public, influencing a "broad section of show visitors," including "the LE [law enforcement] and tactical segment," *id.*, at REM-011356.<sup>5</sup> "[A]n e-newsletter blast" and "[a] call to action to drive members to purchase a new gun," followed by print and web promotions leveraging "commercial shooters[']s... aspir[ation]" to own this weapon due to its "relationship with the LE community" would further inspire the target market. *Id.* at REM-0011359-61. The draft ad commands potential buyers to use a new Bushmaster assault rifle to "**CLEAR THE CRACK HOUSE**" and "**ICE THE PERP. SAVE THE HOSTAGE.**" *Id.* at, REM-0011363-64. A final ad produced by Remington, however, changes the copy to "**CLEAR THE ROOM**" and "**RESCUE THE HOSTAGE.**" Ex. F, REM-00730. Remington's email production includes no prior or subsequent drafts of the advertisement, no emails or correspondence that show how the draft advertisement was altered to its final form, no emails between Remington and BroCo

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<sup>4</sup> Remington produced only 146 unique email communications with BroCo. DN 327 ¶ 38.

<sup>5</sup> The SHOT show is a massive shooting exhibition attended by law enforcement and the public.

discussing the concepts, and no emails or any communications relating to market or other research to support an understanding about how well the campaign might be received.<sup>6</sup>

The parties will meet and confer about the inadequacy of Remington's production. But the Court should understand that this example is only the tip of the iceberg. Emails about other marketing campaigns are also missing, particularly the notorious "Man Card" AR-15 campaign – **"CONSIDER YOUR MAN CARD REISSUED....** If it's good enough for the professional, it's good enough for you." Ex. G, REM00727. Despite (or perhaps because of) the "Man Card" campaign's success, Remington produced no emails showing how this ad was developed or revised over time. There are no emails showing management review or approval of this campaign. There are no emails showing communications with publications, like Maxim, potentially discussing revisions, cost, timing, or suitability of the advertisement, as would be expected. And there is no single document – or even an entry on a privilege log, because Remington has not produced one – indicating any legal or compliance review of these mass market, consumer-focused advertisements and marketing plans.<sup>7</sup> [REDACTED]

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<sup>6</sup> To continue the example, documents are responsive to RFP 8 of the plaintiffs' Third Set of RFPs, which seeks "All Documents concerning the creation, development, or editing each and every Advertisement [for Assault Rifles]," to RFP 12, which seeks "All Documents concerning any communications to or from any advertising agency ... employed to assist You in developing, maintaining, marketing or distributing any of [Assault Rifle Advertisements]." as well as to RFPs 14, 15, 22, 23, and 26. In Remington's search terms, Ex. B to DN 357, we now can see how Remington structured its underproduction, such that only 146 unique emails with BroCo were produced. Its searches for "BroCo", "Brothers", and "Brothers & Co." are all cross-referenced with synonyms for assault rifle. DN 257, Ex. B, 18-21. But RFP 12 is not limited to communications concerning assault rifles. It seeks "[a]ll" communications with BroCo. Without ever alerting the plaintiffs or the Court that it was doing so, Remington simply restricted its search and produced much less than what RFP 12 (and plaintiffs' other RFPs) call for.

<sup>7</sup> Many emails Remington produced are missing key attachments. The plaintiffs know this only because of the context within those emails. For example, in Ex. H, REM-0012460, a Remington employee notes that they "have committed to running a Bushmaster ad in Maxim," attaching

[REDACTED]

[REDACTED]

The same point can be made yet another way. Remington claims that its average custodian sent and received approximately 5,700 emails each year. DN 357.00 at ¶ 40.

Assuming that figure is correct, Remington’s position that its email production of 2,194 unique emails for a six-year period is sufficient makes no sense: its own estimation of average emails sent each year would suggest that over 171,000 emails were sent and received by the more than 30 marketing personnel in 2010 alone. Its “substantial” email production thus accounts for just **1.3%** of the average number of emails sent by its marketing department **in a single year**.<sup>8</sup>

Remington exposes its blatant disrespect for the discovery process fully when it argues that its production of 2,194 unique emails is justified because “the proper scope of discovery in this case is limited by the Supreme Court’s ruling.” DN 355.00 at 21. The Supreme Court in no way limited discovery and made no rulings on discovery whatsoever. The defendant is perpetuating its conflation of a “narrow legal theory” with its own narrow version of what might be relevant at trial – a totally inappropriate way to thwart the discovery process and hide

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“three concepts of the same execution,” and asking the recipients “which tag line [they] like the most.” Remington’s production does not include these attachments. It includes one response to the group request for feedback, no others. Where are the rest?

<sup>8</sup> Remington repeatedly references the parties’ alleged failure to come to agreement on search terms in 2016 as justification for its overly narrow and limited production of emails. By now, Remington should know better than to make this argument. The Court itself pointed out to Remington that “[t]he obligation to act in good faith and provide documents within their knowledge, possession, or power rests on the defendants....” DN 316.00. The plaintiffs did not waive the right to full and fair production because there was no agreement on search terms and custodians. (In making this argument, Remington also ignores the discovery process that took place during 2020 in connection with the plaintiffs’ Third RFPs – specifically, Remington’s own refusal to provide any information about its custodians or search terms. DN 329.00, Exs. H, M.)



documents. The scope of discovery in Connecticut is determined by the wording of the discovery requests and discovery orders. “[D]iscovery compliance is ... regulated by the rules of practice. Practice Book §§ 13–7 and 13–10 make responses to interrogatories and requests for production mandatory.” *Duart v. Dep’t of Correction*, 303 Conn. 479, 490 (2012). Connecticut law does not recognize Remington’s self-serving view of “the narrow remaining issue in this case,” DN 355.00 at 23, as a justification for noncompliance. Rather the deliberate refusal to answer fully and fairly – precisely what Remington’s argument shows – is sanctionable discovery abuse.

## **II. REMINGTON’S SOCIAL MEDIA PRODUCTION IS INADEQUATE**

Remington tries to distract from its nonproduction of responsive emails by focusing on the history of its collection, processing, and production process of the “native” format production of social media posts. The format for production of social media posts is certainly something the parties will take up at the meet and confer. In the event those issues cannot be resolved, however, it is important for the Court to understand the nature of Remington’s noncompliance.

On November 13, 2015, the plaintiffs requested that Remington produce documents, including web site postings, blog postings, and/or any other internet marketing created by or at the behest of Remington, without specifying a form of production for the social media data, as the Practice Book already contains guidance on how such documents should be produced absent specification.<sup>9</sup> Remington produced PDF captures of its social media accounts – a form that is

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<sup>9</sup> Practice Book § 13-9(e) states that “[i]f information that has been electronically stored, and if a request for production does not specify a form for producing a type of electronically stored information, the responding party shall produce the information in a form in which it is ordinarily maintained or in a form that is reasonably usable.” Remington’s citation to *Autotech Techs. Ltd. P’ship v. Automationdirect.com, Inc.*, 248 F.R.D. 556, 558 (N.D. Ill. 2008) is inapposite. That case concerned word processing files, not multiple years’ worth of social media data, and the state of the law and technology have changed substantially since 2008. As early as 2011, e-discovery vendors have advised legal practitioners that producing social media evidence, especially in a

neither ordinarily maintained by Remington or reasonably usable by the plaintiffs. The plaintiffs therefore renewed their requests, *see* DN 327, Exs. A, B and C, 3<sup>rd</sup> Set of RFPs, No. 2, notified Remington of the deficiencies with this production in writing, DN 356.00, Ex. B, and ultimately (after much discussion, *see* DN 356.00 Exs. C and D), Remington agreed to produce “downloaded social media content across the Remington Brands (including all embedded videos),” DN 329.00, Ex. G. The plaintiffs expected, consistent with the ESI protocol<sup>10</sup> and the Practice Book to receive (at least) reproductions of the social media posts from Remington’s perspective, showing all images, comments, other third-party interactions that would have been visible to Remington, and any other associated documents or files. What the plaintiffs received can be described only as more blatant disregard for Remington’s discovery obligations: a mess of parts with no instructions on how to reassemble them. Relevant user comments or posts associated with this dump of images were not part of Remington’s production; Remington does not dispute (or even mention) this in its brief, conceding that it has failed to produce this critical aspect of any social media production.

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native format that retains critical metadata, would require the correct technology. Ex. I [online article]. Indeed, the Sedona Conference – the premier authority on e-discovery – has advised that, in matters where it is important to review social media data interactively and as it appeared on the social media platform, parties should produce that data in native files with associated metadata, or in an interactive format that reflects how one might reasonably use the data. The Sedona Conference, *Primer on Social Media*, 20 SEDONA CONF. J. 1, 65–66 (2019); *see also In re Cook Med., Inc., IVC Filters Mktg., Sales Practices & Prods. Liab. Litig.*, 2017 WL 4099209, at \*3–4 (S.D. Ind. Sept. 15, 2017) (ordering the plaintiff to produce the native files with metadata of the plaintiff’s social media accounts rather than PDF captures).

<sup>10</sup> The ESI protocol requires that “[p]arent-child relationships . . . shall be preserved to the extent feasible” and that “[i]f any member of a family group is produced, all members of that group must also be produced or else logged as privileged or redacted,” DN 230.00 at 10, and production of metadata “to the extent available,” *id.* at 4.

Dated: August 13, 2021

THE PLAINTIFFS,

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*Their Attorneys*

## **CERTIFICATION OF SERVICE**

This is to certify that a copy of the foregoing has been emailed this day to all counsel of record as follows:

### **COUNSEL FOR:**

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FREEDOM GROUP, INC., A/K/A;  
BUSHMASTER FIREARMS, A/K/A;  
BUSHMASTER FIREARMS, INC., A/K/A;  
BUSHMASTER HOLDINGS, INC., A/K/A  
REMINGTON ARMS COMPANY, LLC, A/K/A;  
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Dated: August 13, 2021

/s/ Joshua D. Koskoff

Joshua D. Koskoff

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Jeffrey W. Wisner

# **EXHIBIT A**

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As filed with the Securities and Exchange Commission on May 17, 2010

Registration No. 333-162595

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

**Pre-effective  
AMENDMENT NO. 4  
to  
FORM S-1  
REGISTRATION STATEMENT  
UNDER  
THE SECURITIES ACT OF 1933**

**FREEDOM GROUP, INC.**

(Exact name of registrant as specified in its charter)

<b>Delaware</b>	<b>3484</b>	<b>26-0174491</b>
(State or other jurisdiction of incorporation or organization)	(Primary Standard Industrial Classification Code number)	(I.R.S. Employer Identification Number)

**870 Remington Drive  
Madison, North Carolina 27025-1776  
(336) 548-8700**

(Address, including zip code, and telephone number, including area code, of registrant's principal executive offices)

**Fredric E. Roth, Jr.  
General Counsel and Secretary  
Freedom Group, Inc.  
870 Remington Drive P.O. Box 1776  
Madison, North Carolina 27025-1776  
(336) 548-8700**

(Name, address, including zip code and telephone number, including area code, of agent for service)

**Please address a copy of all communications to:**

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**Approximate date of commencement of proposed sale to the public:  
As soon as practicable after this Registration Statement becomes effective.**

If any of the securities being registered on this Form are to be offered on a delayed or continuous basis pursuant to Rule 415 under the Securities Act of 1933 check the following box. ☐

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, please check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☐

Accelerated filer ☐

Non-accelerated filer ☒  
(Do not check if a smaller reporting company)

Smaller reporting company ☐

**The Registrant hereby amends this Registration Statement on such date or dates as may be necessary to delay its effective date until the Registrant shall file a further amendment which specifically states that this Registration Statement shall thereafter become effective in accordance with Section 8(a) of the Securities Act of 1933 or until the Registration Statement shall become effective on such date as the Commission, acting pursuant to said Section 8(a), may determine.**

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## PROSPECTUS SUMMARY

*The following summary is qualified in its entirety by, and should be read together with, the more detailed information and financial statements and related notes thereto appearing elsewhere in this prospectus. You should read the entire prospectus carefully, particularly the "Risk Factors" beginning on page 19 and our consolidated financial statements and the related notes thereto. In this prospectus, unless otherwise indicated or the context otherwise requires, references to (1) the terms "we," "us," "our," the "Company" and "Freedom Group" refer to Freedom Group, Inc. and its subsidiaries on a consolidated basis, (2) the term "FGI" refers to Freedom Group, Inc., (3) the term "FGI Holding" refers to FGI Holding Company, Inc., (4) the term "FGI Opco" refers to FGI Operating Company, Inc., (5) the term "Remington" refers to Remington Arms Company, Inc. and its direct and indirect subsidiaries, (6) the terms "Bushmaster" and "BFI" refer to Bushmaster Firearms International, LLC and its direct and indirect subsidiaries, (7) the term "Marlin" refers to the Marlin Firearms Company, (8) the term "DPMS" refers to DPMS Firearms LLC, (9) the term "EOTAC" refers to EOTAC, LLC, (10) the term "INTC" refers to INTC USA, LLC, (11) the term "Precision Arms Center" refers to Precision Arms Center, LLC, (formerly known as Bushmaster Custom Shop, LLC), (12) the term "Dakota Arms" refers to Dakota Arms, LLC, (13) the term "S&K" refers to S&K Industries, Inc., (14) the term "AAC" refers to Advanced Armament Corp., (15) the term "Barnes" refers to Barnes Bullets, Inc., (16) the term "CCM" refers only to Cerberus Capital Management L.P., (17) the term "Cerberus" refers to Cerberus Capital Management, L.P., along with its affiliates, (18) the term "Remington Acquisition" refers to our acquisition of 100% of the shares of RACI Holding, Inc., the then parent company of Remington, on May 31, 2007, (19) the term "Marlin Acquisition" refers to Remington's acquisition of 100% of the shares of Marlin and its subsidiary, H&R 1871, LLC, on January 28, 2008 and (20) the term "Dakota Acquisition" refers to our acquisition of certain assets of Dakota Arms on June 5, 2009. The terms "Refinancings," "Initial Opco Notes," "Additional Opco Notes," "Opco Notes," "ABL Revolver" and "Additional Notes Issuance" have the meaning given to them in "Management's Discussion and Analysis of Financial Condition and Results of Operations—2009 Debt Transactions," the terms "PIK Notes," "Capital Stock Transfer," "Transfer Transactions" and "PIK Transactions" have the meanings given to them in "Management's Discussion and Analysis of Financial Condition and Results of Operations—2010 Financing" and the term "Recapitalization" has the meaning given to it in "—The Offering." The Refinancings, the Additional Notes Issuance, the Dakota Acquisition, the S&K Acquisition, the AAC Acquisition, the Barnes Acquisition, the PIK Transactions and the Recapitalization are referred to collectively herein as the "Transactions." References to Adjusted EBITDA are to Adjusted EBITDA as defined in footnote 5 in "—Summary Historical and Pro Forma Consolidated Financial Data." References to "preferred stock" are to our Series A preferred stock.*

### Our Company

We are one of the leading firearms, ammunition and related products companies in the world, with #1 commercial market positions across all of our major product categories in the United States, the largest firearms and ammunition market globally. We are an innovator, designer, manufacturer and marketer of an increasingly broad product line which services the hunting, shooting sports, law enforcement and military end-markets under some of the most globally recognized brands including *Remington*, *Marlin*, *Bushmaster*, and *DPMS*, among others. With our *Remington* brand dating back to 1816, we are America's oldest and largest manufacturer of firearms and ammunition. We believe that our long heritage and reputation for quality have resulted in strong brand recognition and customer loyalty. For example, our *Remington* brand, which we believe represents an enduring symbol of American values and is trusted and respected by generations of sportsmen, is ranked #2 in brand awareness, second only to *Nike* among sportsmen according to the SportsOneSource 2009 Brand Index. We believe our scale and product breadth are unmatched within the industry, with approximately 1.2 million long guns and 2.6 billion rounds of ammunition sold during the twelve months ended



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March 31, 2010. For the twelve months ended March 31, 2010, we generated net sales, net income and Adjusted EBITDA of \$830.7 million, \$46.8 million and \$171.2 million, respectively.

We are the only major U.S. manufacturer of both firearms and ammunition, which we believe is a significant competitive advantage and supports our market leadership position. We believe this leadership position across all of our major product categories is evidenced by our #1 U.S. commercial market shares in shotguns, rifles, and ammunition. We estimate that in calendar year 2008 over 85% of our domestic sales came from product categories where we hold the #1 U.S. commercial market share position. We have a focus on innovation that we believe results in category-defining products, strong brand recognition and long-term customer loyalty.

The following table details our U.S. commercial market leadership for the major product categories in which we participate.

<u>Categories</u>	<u>U.S. Market Position</u>	<u>U.S. Market Share</u>	<u>Selected Brands</u>
Firearms			
Shotguns	#1	31%	<i>Remington, Marlin, Parker, H&amp;R, L.C. Smith, Dakota Arms</i>
Traditional Rifles	#1	37%	<i>Remington, Marlin, H&amp;R, Dakota Arms</i>
Modern Sporting Rifles	#1	48%	<i>Bushmaster, DPMS, Remington</i>
Ammunition	#1	33%	<i>Remington, UMC, Dakota, Barnes</i>

Note: Based on 2008 Firearms and Ammunition Market Data from SMRG and AFMER, and excludes law enforcement, international and military sales.

In addition to our significant commercial business, we sell products to law enforcement, international, government and military end-markets where we already have a strong presence such as in the domestic law enforcement shotgun and military sniper rifle markets. We believe that our increasingly focused law enforcement and global military products divisions will increase our presence in the law enforcement and defense markets beyond our existing customers.

Today the Freedom Group includes over 10 well-regarded brands, collaborating across all disciplines, from product development to distribution, delivering end-user driven products to the hunting, shooting sports, law enforcement and military end-markets. We have made significant progress in our transition to a customer-focused sales and marketing organization by shifting to a two-tiered sales structure whereby dedicated key account managers sell the full FGI product offering to our top retail accounts while our internal field sales force calls on our network of distributors and dealers. This has allowed us to create a unified customer facing platform capable of selling our entire suite of brands and products across multiple end-markets while providing the ability to leverage our flexible manufacturing capacity to quickly respond to changes in customer preferences and demands.

Our 11 manufacturing facilities and approximately 2,900 employees represent the largest domestic manufacturing presence in our industry, enabling us to deliver our products throughout the U.S. and internationally to approximately 80 countries. In addition, our product leadership and innovation are supported by what we believe to be the industry's only domestic freestanding and dedicated research and development facility. Our customer focused sales force, together with our flexible manufacturing capability and research and development efforts, have resulted in 18 new product launches in 2009 and a robust future product pipeline.

## **Our History**

With the goal of creating the world's leading firearms, ammunition and related products company, we have built a family of brands and products through the successful integration of four

rate, or the CAGR, from 2004 to 2008. We believe the commercial modern sporting rifle market, in which we believe we are the largest producer, has grown at a 31% CAGR from 2004 to 2008. Further, the NSSF estimates that consumer ammunition sales grew at a 13% CAGR during the 2004-2008 period.

Our consumers include people of all ages, gender, educational backgrounds and income levels. The NRA estimates 70 to 80 million people in the U.S. own firearms, with privately held ownership approaching 300 million. This represents a significant installed base that generates a recurring revenue stream for ammunition, parts and accessory sales. In addition, we believe that a number of other developments in the industry are broadening and renewing consumer interest in hunting and shooting sports, including a renewed interest in the outdoors and product offerings designed to introduce new shooters to hunting and shooting.

We believe that a meaningful percentage of current firearm sales are being made to first time gun purchasers, particularly women. We further believe that the introduction of first time shooters, as well as the renewed interest of many existing shooters, will translate to increased participation across the ever-widening array of shooting sports. In addition, the continued adoption of the modern sporting rifle has led to increased growth in the long gun market, especially with a younger demographic of users and those who like to customize or upgrade their firearms. We view this current increase in demand as having significant long-term benefits, including expanding the popularity of shooting sport categories, as well as providing an opportunity to cultivate new, and renew existing, long-term customer relationships across our portfolio of products and brands.

### **Our Competitive Strengths**

We believe our business model provides a broad and attractive value proposition to our customers and we believe that we are distinguished by the following competitive strengths:

#### ***Category-Defining Brands***

We believe our brand names are some of the most globally recognized in the hunting, shooting sports, law enforcement, and military firearm and ammunition end-markets.

Built on a legacy of quality and innovation, we believe that the *Remington* brand represents an enduring symbol of American values and is trusted and respected by generations of sportsmen, lawmen and soldiers. Established in 1816, the *Remington* brand is ranked #2 in brand awareness, second only to *Nike* among sportsmen and 8th overall among all sports brands in the SportsOneSource 2009 Brand Index. The brand has been judiciously deployed across virtually every category of our firearms and ammunition. Remington has some of the best-known and longest-selling products in the hunting and shooting sports market, which we believe define their respective categories. For example, the 10 millionth Model 870 pump-action shotgun was produced in April 2009 and we have produced more than 5 million Model 700 bolt-action rifles, which we believe is currently the most widely-distributed rifle in its class.

The *Bushmaster* and *DPMS* brands, established in 1973 and 1986, respectively, represent the largest and second largest designers and suppliers of modern sporting rifles, components and parts for the commercial market, in addition to sales to the law enforcement, military and international markets. Bushmaster was one of the first to introduce modern sporting rifles to the consumer market, which is growing faster than the general firearms industry. Our other niche firearms brands include *Marlin* (lever-action and bolt-action rifles), *Harrington & Richardson* (break-action single-shot rifles and shotguns), *L.C. Smith* (aspirational side-by-side and over-under shotguns), *Parker* (high-end brand of artisanal shotguns), *Dakota Arms* (aspirational rifles and shotguns chambered in large calibers), *Miller Arms* (customized precision single-shot rifles), and *Nesika* (precision bolt-action rifles and actions).

## Table of Contents

Our law enforcement and global military products divisions capitalize on key relationships to identify customer needs, so that research and development investments are focused and timely in providing products that meet these needs. We supplement our law enforcement and military efforts through the consultation with our board members who have extensive knowledge and experience.

### ***Attractive Cash Flow Generation***

We believe our balanced business model built upon sales, marketing and distribution of both firearms and ammunition to long standing customers further supports our ability to generate strong future cash flows that can be re-invested in research and development, the growth of sales within our distribution channels and in the acquisition of select complementary businesses. We have achieved substantial working capital improvements since 2007 by decreasing average days sales outstanding by 18 days and inventory days by 38 days from January 2007 through March 2010. Our attractive operating margins, variable cost structure, relatively low maintenance capital expenditures and low working capital needs all result in strong cash flow generation.

### ***Proven and Experienced Management Team***

Our senior management team has substantial industry and related operational, sales and marketing and financial experience. For example, our Chief Executive Officer, Ted Torbeck, joined us after a 28 year career with General Electric, our Chief Sales Officer, Scott Blackwell, has over 20 years experience in the firearm and law enforcement industry and our Chief Financial Officer, Stephen Jackson, has been with the Company for six years and has over 19 years of financial and accounting experience. In addition to key managers that have been in place at our companies, we have added numerous experienced external professionals to execute our business strategy. Our management team is also supported by a dedicated group of employees who embody an innovation driven culture.

## **Our Growth Strategy**

Our fundamental strategy is to continue to strengthen and broaden our leading market positions across the firearms, ammunition and related product markets. We do so by actively and collectively managing our broad portfolio of powerful brands and products across a diverse set of end-markets. Our core strengths described above are augmented by a constant focus on operational improvements designed to increase manufacturing efficiency, quality and profitability. Specific additional strategic initiatives include:

### ***Increase Commercial Market Share through Marketing-Focused Organization***

The combination of our strong brands, wide product breadth, leading market shares and the ability to offer both firearms and ammunition has cultivated a broad and loyal customer base across a wide range of commercial retailers and distributors. We have invested in our commercial sales organization, growing our headcount by 67% over the past three years, to increase the experience, reach and impact of our team. This investment and effort has significantly reduced our use of third-party, non-exclusive sales representatives. We expect to continue to grow our commercial market share by leveraging our strong brand and product portfolio with our dedicated sales force to increase shelf space. By increasing our consumer points-of-contact and continued focus on a customer driven platform supported by our sales and marketing optimization efforts, we believe we will continue to expand our leading market position.

### ***Further Penetrate the Domestic and International Defense and Law Enforcement Channels***

Our global military products division, operating under a unified leadership across all of our brands, has focused research efforts on developing products in advance of key emerging imminent

## **SELECTED HISTORICAL CONSOLIDATED FINANCIAL DATA**

The selected historical financial data below for each of the years ended December 31, 2009, 2008 and 2007 and the period from April 1, 2006 to December 31, 2006 are derived from the consolidated financial statements of Freedom Group and the selected historical financial data below for the period from January 1, 2006 to March 31, 2006 is derived from the consolidated financial statements of Bushmaster Firearms, Inc. and its subsidiaries. Those consolidated financial statements have been audited by Grant Thornton LLP, registered independent public accounting firm, and are included elsewhere in this prospectus. The consolidated financial statements of Bushmaster Firearms, Inc. (predecessor) for the year ended December 31, 2005 are not included in this prospectus. The selected historical financial data for each of the three month periods ended March 31, 2010 and 2009 are derived from the unaudited consolidated financial statements of FGI included elsewhere in this prospectus. Such unaudited consolidated financial statements, in the opinion of our management, include all adjustments necessary for the fair presentation of our financial condition, results of operations and cash flows for such periods and as of such dates.

As a result of the acquisition of the assets of Bushmaster by CCM, which was effective as of April 1, 2006, our financial results for 2006 have been separately presented in our consolidated financial statements for the "Predecessor Entity" for the period January 1, 2006 through March 31, 2006 and for the "Successor Entity" for the period April 1, 2006 through December 31, 2006. We have combined the 2006 Predecessor Entity and Successor Entity periods from January 1, 2006 through December 31, 2006 in the selected historical consolidated financial data below, as we believe this combination is more useful to explain our results of operations. This presentation is not a measure under generally accepted accounting principles in the United States ("GAAP") and it is provided to enhance the reader's understanding of our results of operations for the period presented.

You should read the following audited and unaudited selected historical financial data of Freedom Group in conjunction with "Capitalization," "Unaudited Pro Forma Condensed Consolidated Financial Information," "Management's Discussion and Analysis of Financial Condition and Results of Operations" and the historical financial statements and other financial information appearing elsewhere in this prospectus.

The results of operations for the years ended December 31, 2005 and 2006 reflect the results of operations of Bushmaster. Our results of operations for the year ended December 31, 2007 also include the results of operations of Remington, which we acquired on May 31, 2007. Due to the significant impact of the acquired Remington operations, our financial results for periods subsequent to May 31, 2007 may not be comparable to our results from prior-year periods. In addition, on December 13, 2007 we consummated the acquisition of certain assets of DPMS and on January 28, 2008, we consummated the Marlin Acquisition. Due to the impact of the acquired Marlin and DPMS operations, our results of operations for 2008 may not be comparable to our results from prior-year periods. We consummated the acquisitions of certain assets and liabilities of Dakota Arms on June 5, 2009, S&K on September 22, 2009, AAC on October 2, 2009, and Barnes on December 31, 2009. For additional information regarding our acquisitions, see "Business—Company Overview—Our History and Corporate Structure."

## Table of Contents

	Predecessor		Successor						
	Year Ended December 31, (Unaudited)	January 1 through March 31,	April 1 through December 31,	Year Ended December 31,			Three Months Ended March 31, (Unaudited)		
	2005	2006	2006	2007(2)	2008(2)	2009	2009	2010	
	(in millions, except share and per share data)								
Statement of Operations Data:									
Net Sales(1)	\$ 60.8	\$ 16.8	\$ 41.3	\$ 384.9	\$ 722.5	\$ 848.7	\$ 192.2	\$ 174.2	
Cost of Goods Sold	37.3	9.8	24.6	306.0	524.4	566.7	132.7	115.3	
Gross Profit	23.5	7.0	16.7	78.9	198.1	282.0	59.5	58.9	
Operating Expenses	12.0	3.8	8.9	70.1	186.9	169.7	32.2	42.3	
Operating Income	11.5	3.2	7.8	8.8	11.2	112.3	27.3	16.6	
Interest Expense	0.4	0.1	4.5	21.2	30.8	29.8	7.1	8.0	
Income (Loss) before Taxes	11.2	3.1	3.3	(12.4)	(19.6)	82.5	20.2	8.6	
Net Income (Loss)	11.2	3.1	2.1	(9.0)	(28.6)	54.4	13.2	5.6	
Net Income (Loss) Applicable to Common Stock	11.2	3.1	2.1	(9.9)	(48.2)	33.6	7.8	(0.4)	
Net Income (Loss) Per Share(3):									
Basic	\$ 0.70	\$ 0.19	\$ 0.13	\$ (0.62)	\$ (2.97)	\$ 2.05	\$ 0.48	\$ (0.02)	
Diluted	\$ 0.70	\$ 0.19	\$ 0.13	\$ (0.62)	\$ (2.97)	\$ 2.00	\$ 0.47	\$ (0.02)	
Weighted Average Number of Shares Outstanding(3):									
Basic	15,917,341	15,917,341	15,958,261	16,084,174	16,236,305	16,332,045	16,338,022	16,347,744	
Diluted	15,917,341	15,917,341	16,187,849	16,084,174	16,236,305	16,806,876	16,551,995	16,897,808	
Operating and Other Financial Data:									
Net Cash provided by (used in):									
Operating Activities	\$ 10.1	\$ 3.0	\$ 3.4	\$ 70.8	\$ 52.9	\$ 122.3	25.3	(32.2)	
Investing Activities	2.8	—	(77.3)	(90.7)	(57.1)	(58.8)	(3.5)	(5.8)	
Financing Activities	(12.9)	(2.9)	74.6	43.9	57.3	(81.1)	(3.3)	2.6	
</									

# **EXHIBIT B**

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NO. X06 CV15 6050025 S : SUPERIOR COURT  
DONNA L. SOTO, ADMINISTRATRIX :  
OF THE ESTATE OF VICTORIA L. : COMPLEX LITIGATION  
SOTO, ET AL. : DOCKET  
V. :  
BUSHMASTER FIREARMS : AT WATERBURY  
INTERNATIONAL, LLC, ET AL. :

VIDEOTAPED DEPOSITION OF: THOMAS TYLER, taken at  
the Executive Office Center, 254 Commercial Street,  
Portland, Maine, on July 16, 2020, commencing at 10:35  
A.M., before Lisa S. Bishop, RPR, RMR, a Notary Public in  
and for the State of Maine.

---

U.S. LEGAL SUPPORT  
877-479-2484

1 to say things changed after Cerberus acquired Bushmaster?

2 A That's correct.

3 Q Okay. So just because there were a lot of  
4 different corporate names, I'm going to refer to, you know,  
5 the pre-Cerberus acquisition as old Bushmaster and the post  
6 Cerberus acquisition as new Bushmaster. Does that seem  
7 clear?

8 A Okay.

\* \* \*

SOME CONTENT REDACTED



\* \* \*

SOME CONTENT REDACTED

10 Q Okay. And in the old Bushmaster days, who was the  
11 head of the financial department?

12 A Originally, I can't remember his name. He was --  
13 his transition was very short. And then there was a  
14 gentleman by the name of Richard Thurston.

15 Q And was Mr. Thurston there up until -- at least up  
16 until the time of the acquisition?

17 A Yes.

18 Q And beyond?

19 A No.

20 Q Okay. Thank you for answering these questions. I  
21 know these are pretty dry questions. The -- so -- so there  
22 came a time when the way you would be provided with sales  
23 numbers would be through e-mail, correct?

24 A I believe so, yes.

25 Q And as time went on, were you -- withdrawn.

1                   Did you often communicate with your team in  
2 person?

3           A       Yes.

4           Q       And did you also often communicate with your team  
5 by e-mails?

6           A       Very little because I could holler at them. They  
7 were only feet away.

8           Q       They came running?

9           A       They came running.

10          Q       Did you have -- up until -- in old Bushmaster  
11 days, did you have scheduled sales meetings?

12          A       Every Wednesday morning.

13          Q       Did that continue up until the -- up to and  
14 through your tenure at new Bushmaster?

15          A       Not totally, not every Wednesday, but yes, the  
16 meetings continued on a regular basis. I would say at  
17 least monthly.

18          Q       Was it important for you -- was it important for  
19 you to meet in person with your team at least once a week  
20 and have that in person communication?

21          A       We met weekly as we all sat down without the  
22 phones turned on. Obviously I talked to my staff every  
23 minute of every day, we were in the same room.

24          Q       Right, I got it. Okay. So it sounds like that  
25 you were dealing -- because of the size of the office and

1 the size of the team, you were dealing mostly -- your  
2 interactions occurred face to face, is that fair?

3 A That is fair.

4 Q When communicating with other departments though  
5 and other managers, would you -- I assume that some of that  
6 communication would have been electronic or e-mails?

7 A Some, but some is a small word. Very little  
8 because the complex -- if you were there, you could walk  
9 from one building to the other in less than a minute, so  
10 90 percent of that communication, you walk up and say it  
11 face to face.

12 Q In new Bushmaster, after acquisition, were you  
13 dealing with more interacting and reporting or dealing with  
14 more employees in other locations?

15 A When the acquisition was -- yes, they weren't  
16 employees of Bushmaster per se. They were employees of  
17 Remington and so that's how I got involved with those  
18 people because they were in Madison, North Carolina.

19 Q So when you were -- when you were communicating  
20 with those people who were not in the office, is that when  
21 you became more -- is the primary method of communication  
22 there mostly e-mail?

23 A I would say 50 percent e-mail, 50 percent  
24 telephone.

25 Q Okay. By the way, in -- sometime in the early

1           A     I don't think it was that -- well, it might have  
2     been that quick once we -- with the computer systems. It  
3     was probably by the second or third day after month end.

4           Q     Did you have any other way of commun --  
5     communicating electronically other than through e-mail with  
6     Madison or with New York or whoever you were dealing with  
7     within the greater Freedom Group community, were there  
8     other methods of communication?

9           A     E-mail and telephone.

10          Q     Were there any like message boards or  
11     intra-office, yeah, message type programs?

12          A     No.

13          Q     Okay. And you didn't do -- from what I  
14     understand, you didn't -- your -- the old Bushmaster job  
15     didn't require you to do traveling outside of Maine, is  
16     that basically true?

17          A     That is correct.

18          Q     Did that remain the case, you know, throughout  
19     your time at new Bushmaster, other than the SHOT show that  
20     I think you said you were required to visit once a year?

21          A     That's correct, I had not -- did not have to  
22     travel.

23          Q     Well, you did have to travel the 4 miles from your  
24     home to the office?

25          A     Yeah.

C E R T I F I C A T E

I, Lisa S. Bishop, RPR, RMR, a Notary Public in  
and for the State of Maine, hereby certify that the  
within-named deponent was sworn to testify the truth, the  
whole truth, and nothing but the truth, in the  
aforementioned cause of action.

I further certify that this deposition was  
stenographically reported by me and later reduced to print  
through Computer-Aided Transcription, and the foregoing is  
a full and true record of the testimony given by the  
deponent.

I further certify that I am a disinterested  
person in the event or outcome of the above-named cause of  
action.

IN WITNESS WHEREOF, I subscribe my hand  
this \_\_\_\_\_ day of \_\_\_\_\_, 2020.



Lisa S. Bishop, RPR, RMR, Notary Public

My Commission Expires: January 27, 2023

# **EXHIBIT C**

DONNA L. SOTO, ADMINISTRATRIX OF THE ESTATE OF VICTORIA L. SOTO et al.	:	SUPERIOR COURT
	:	
Plaintiffs,	:	JUDICIAL DISTRICT OF FAIRFIELD
	:	
v.	:	AT BRIDGEPORT
	:	
BUSHMASTER FIREARMS INTERNATIONAL, LLC, et al.	:	October 3, 2016
	:	
Defendants.	:	

**REMINGTON’S OBJECTIONS AND RESPONSES TO PLAINTIFFS’ FIRST SET OF INTERROGATORIES**

Defendants Remington Arms Company, LLC and Remington Outdoors Company, Inc., through their counsel, object to and answer Plaintiffs’ First Set of Interrogatories as follows:

**DEFINITIONS**

1. “The Company” means Remington Outdoor Company, Inc., Remington Arms Company, LLC, and any and all subsidiaries, affiliated brands, and predecessor companies, including but not limited to Freedom Group, Inc. and Bushmaster Firearms, LLC, including their current and former employees agents, officers, directors, and representatives.

2. “AR-15 type rifle” means a gas-operated, magazine fed, AR-15/M16/M4/ACR type rifle, regardless of whether it is semi-automatic or select fire.

3. “Civilian market” means all domestic, non-military, non-law-enforcement potential buyers or consumers of AR-type rifles, including distributors and retailers that sell to civilians.

Unless otherwise specified, this First Set of Interrogatories seeks information from the period January 1, 2006 to the present.

## **INTERROGATORIES**

3. Identify any entities that have provided advice, coordination, assistance, or other services concerning advertising, marketing, public relations, market research, focus groups, social or online media monitoring, product promotion, and/or product placement for the Company's AR-15 type rifles. For each such entity listed, describe the nature of the relationship



with the Company, the nature of the services provided, the time period during which those services were provided, and identify the person at each entity who was/is responsible for the provision of services to the Company. **This Interrogatory seeks information for the time period from January 1, 2006 to June 14, 2013.**

**ANSWER:**

Remington objects to this request because it is vague, compound in form, overly broad and unduly burdensome. Plaintiffs' definition of "the Company" includes multiple corporations and limited liability companies, and includes multiple different business entities that did not manufacture or sell the firearm used by Adam Lanza in the shooting. The firearm involved in the shooting was manufactured by Bushmaster Firearms International, LLC ("BFI") in 2009 at its Windham, Maine location, and shipped from that location by BFI in 2010. This interrogatory is also overly broad in scope and time because it seeks information relating to events that occurred after the December 14, 2012 shooting.

Subject to and without waiving these objections, Remington states that Retail Sports Marketing ("RSM") provided marketing services for BFI during the stated time period. Multiple persons at RSM had responsibility for the services provided, including Mike Ladd. Brothers & Company also provided marketing services for BFI during the stated time period. Multiple persons at Brothers & Company had responsibility for the services provided, including James Lawson. Campbell, Ewald also provided marketing services for BFI, during the stated time period. Remington's investigation continues as to the person at Campbell, Ewald who had responsibility for the services provided.

THE DEFENDANTS,

REMINGTON ARMS CO., LLC and  
REMINGTON OUTDOOR COMPANY, INC.

BY: /s/ Scott M. Harrington/#307196

Jonathan P. Whitcomb

Scott M. Harrington

DISERIO MARTIN O'CONNOR &  
CASTIGLIONI LLP #102036

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sharrington@dmoc.com

James B. Vogts (pro hac vice #437445)

Andrew A. Lothson (pro hac vice #437444)

SWANSON, MARTIN & BELL, LLP

330 North Wabash, Suite 3300

Chicago, IL 60611

(312) 321-9100

jvogts@smbtrials.com

alothson@smbtrials.com

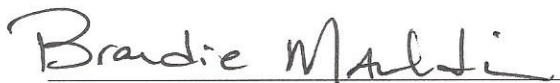
**VERIFICATION**

I hereby certify that I have reviewed the above Responses to Interrogatories and that they are true and accurate to the best of my knowledge and belief.



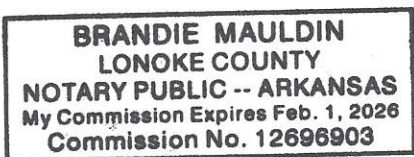
\_\_\_\_\_  
Kris Carson

Subscribed and sworn to before  
me this 27 day of September, 2016.



Notary Public

My Commission Expires:



# **EXHIBIT D**

Message

---

**From:** Eric Barnes [eric@broco.com]  
**Sent:** 11/30/2009 8:13:52 PM  
**To:** Gifford, Roy [/O=REMINGTON/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Giffordro]; Hill, Marc [/O=REMINGTON/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Hillma]; Smith, Ryan [/O=REMINGTON/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Smithrt]; Trull, John [/O=REMINGTON/OU=REMARMS1/cn=Recipients/cn=trulljc]  
**CC:** Kyle Whiteis [kwhiteis@broco.com]; Theresa Sindelar [tsindelar@broco.com]  
**Subject:** Launch Doc and Media Plan  
**Attachments:** 2010 BFI ACR media 113009.xls; ATT00001.htm; BFI ACR SHOT LAUNCH-1rvs.doc; ATT00002.htm

See enclosed for the launch document on the ACR (with in-process creative) and the associated media plan for discussion during our call.

Begin forwarded message:

# **EXHIBIT E**

B U S H M A S T E R    A C R  
L A U N C H

*November 30, 2009*



## OVERVIEW

To support the launch of the Bushmaster ACR, several elements are being suggested to both promote the introduction at the 2010 SHOT Show, as well as drive demand once the product is available commercially. As we proceeded with this effort, a key critical assumption included the position that the current 2010 media budget would be utilized to support both the SHOT Show efforts as well as post-SHOT media. With that, we have approached this plan with a sense of balance in mind; a balance that provides support on the front end of the launch, while maintaining adequate resources to drive demand through the remainder of 2010.

## 2010 SHOT Show Elements

The below SHOT Show opportunities are presented in order of significance, with the most significant opportunity listed first. Collectively, these will expose the Bushmaster ACR to a broad cross-section of show visitors, with additional emphasis being placed on the LE and tactical segment.

\* \* \*

SOME CONTENT REDACTED



\* \* \*

SOME CONTENT REDACTED

## **E-Newsletter**

An e-newsletter blast should be sent to both the consumer advisory board (1200+), as well as the general BFI e-mail list announcing the pending introduction of the Bushmaster ACR. A call to action should be included to drive members to purchase a new gun – potentially giving them first access to this model via a pre-sell promotion.

## **Post SHOT Show Approach**

### **Print**

Print placements would be targeted primarily to the LE segment and crossover pubs with the thought that commercial shooters will associate with this segment and aspire to own an ACR in part as a result of the relationship with the LE community.

#### **Deliverable**

- Full page / 4-color ad (final) – 1.10.10

### **Web – LE Component**

Reinforce print media with banner ad placements on endemic websites. These banner ads would link back to the ACR product page on the Bushmaster website.

#### **Deliverable**

- Banner ad – 12.15.09

### **Web – Commercial Component**

Commercial banner ads with attitudinal message yet product focused. Embed the Man Card theme.

#### **Deliverables**

- Banner ad – 12.15.09

**Please see separate media plan for detail.**

### **Web – Bushmaster.com**

- Develop ACR specific product page within Bushmaster.com where all LE targeted print and web ads will be directed.
  - Include 3D video demonstrating adaptability of ACR platform
  - Include endurance test graphics
  - Provide a link to the ACR Parts store
- Develop a home page takeover flash ad boldly announcing the arrival of the new Bushmaster ACR

## **E-Newsletter**

An e-newsletter blast should be sent to both the consumer advisory board (1200+), as well as the general BFI e-mail list announcing the pending introduction of the Bushmaster ACR. A call to action should be included to drive members to purchase a new gun – potentially giving them first access to this model via a pre-sell promotion.

## **Man Card Campaign**

The Man Card campaign will be incorporated predominantly in association with the Bushmaster family, targeting commercial shooters as well as non-endemic consumers. The campaign will utilize web resources primarily while exploiting print and trade opportunities when available. Specifically, the following elements are being considered in support of the campaign:

\* \* \*

SOME CONTENT REDACTED

BUSHMASTER | ACR SYSTEM



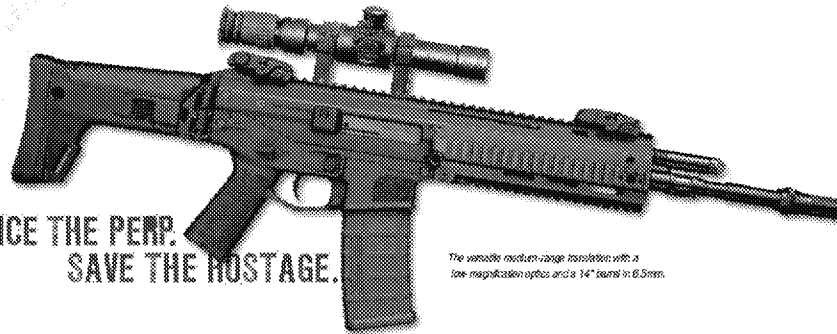
CLEAN THE CRACK HOUSE.

A close-quarters option in 6.5Grmm chambering with a red-dot illuminated sight, 10 1/4" barrel in and back in the loaded position.



NEUTRALIZE THE ROOFTOP.

Configured as a designated marksman platform with stock in extended position, 18" barrel in 6.5mm and high-magnification optics.



ICE THE PENP.  
SAVE THE HOSTAGE.

The versatile medium-range transition with a low-magnification optics and a 14" barrel in 6.5mm.

The world's most adaptive modular rifle. The Bushmaster ACR (Adaptive Combat Rifle) System.

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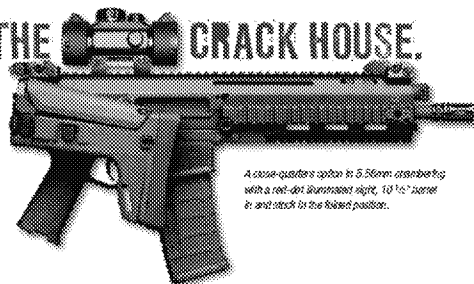
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ACR SYSTEM



## CLEAN THE CRACK HOUSE.



A close-quarters option in 5.56mm chambering with a red-dot illuminated sight, 10 1/2" barrel in and sticks to the folded position.

## NEUTRALIZE THE ROOFTOP.



Credigence as a designed nearness platform with stock in extended position, an 18" barrel in 5.56mm and high-magnification optics.

## ICE THE PERP. SAVE THE HOSTAGE.



The versatile medium-range taskator with a low-magnification optic and a 14" barrel in 5.56mm.

The world's most adaptive modular rifle. The Bushmaster ACR (Adaptive Combat Rifle) System.

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# A SHAPE SHIFTER. A FORCE MULTIPLIER. A GAME CHANGER. IT'S GOING TO BE A BUSY DAY IN HELL.

The world's most adaptive modular rifle. The Bushmaster ACR (Adaptive Combat Rifle) System. *Utam wisi enim ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo conse quat. Duis eum vel eum hure dolor in hendrerit in v ad minim veniam, quis nostrud exerci tation ullamcorper suscip utate velit esse mol restie consequat, vel illum dolore eu feugiat nulla facilisis at vero eros et accidrit in vulp utate velit eoda conse quat. Duis autem vel eum hure dolor in hendrerit in v ad minim variam, quis nostrud exerci tation ullamcorper suscip utate velit esse mol restie consequat, vel illum dolore eu feugiat nulla facilisis at vero eros et accidrit in vulp utate velit esse mol.*

**BUSHMASTER ACR SYSTEM** **A-C-R**

All major components are easily configurable to user preference. The fully-modular barrel, stock, and bolt are all interchangeable in less than 2 minutes, without the use of tools. As your mission evolves, so can your Bushmaster ACR.

15" DMR

14.5" Carbine

10.5" with stock folded

10.5" with stock extended

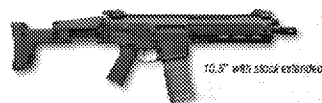
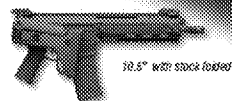
**BUSHMASTER FIREARMS**

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MADE IN USA

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All major components are easily configurable to user preference. The fully-modular main, stick, and belt are all interchangeable in less than 2 minutes, without the use of tools. As your mission evolves, so can your Stormmaster ACP.



# A SHAPE SHIFTER. A FORCE MULTIPLIER. A GAME CHANGER. IT'S GOING TO BE A BUSY DAY IN HELL.

The world's most adaptive modular rifle. The Bushmaster ACR (Adaptive Combat Rifle) System. Utam wisi enim ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo conse quat. Duis autem vel eum iriure dolor in hendrerit in v ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo conse quat. Duis autem vel eum iriure dolor in hendrerit in v ad minim veniam, quis nostrud exerci tation ullamcorper suscipit lobortis nisl ut aliquip ex ea commodo conse quat.

All major components are easily configurable to user preference. The fully-modular barrels, stock, and butt are all interchangeable in less than two minutes.

Just a few of the AR configurations the Bushmaster ACR System can be quickly converted to, in the field and without tools.



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BUSHMASTER | ACR SYSTEM

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# **EXHIBIT F**



# ACR

## ADAPTIVE COMBAT RIFLE

All major components are easily configurable to user preference. The fully-modular barrels, stock, and bolt are all interchangeable in less than 2 minutes, without the use of tools. As your mission evolves, so can your Bushmaster ACR.



**CLEAR THE ROOM.**

A close-quarters option in 5.56mm chambering with a red-dot illuminated sight, 10 1/2" barrel in and stock in the folded position.



**COVER THE ROOFTOP.**

Configured as a designated marksman platform with stock in extended position, an 18" barrel in 6.8mm and high-magnification optics.



**RESCUE THE HOSTAGE.**

The versatile medium-range translation with a low-magnification optics and a 14" barrel in 6.5mm.

**The world's most adaptive rifle. The new Bushmaster ACR (Adaptive Combat Rifle).**

The ACR rapidly adapts to any mission, anywhere. Switch from 5.56mm to 6.8mm chamberings within two minutes – without tools. Barrel length, stocks and accessories are just as easily altered, enabling the ACR to tackle everything from close-quarters to extended-range duty. Tested and proven reliable in the most brutal conditions imaginable, it's also truly ambidextrous. Be ready for anything, with the new Bushmaster ACR.



[WWW.BUSHMASTER.COM](http://WWW.BUSHMASTER.COM)



**It's a man's world. Get the card to prove it. [www.bushmaster.com/mancard](http://www.bushmaster.com/mancard)**

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# **EXHIBIT G**



**CONSIDER  
YOUR MAN CARD  
REISSUED.**



If it's good enough for the professional, it's good enough for you. Bushmaster. The world's finest commercial AR-platform rifle.

To find a dealer near you, visit  
[WWW.BUSHMASTER.COM/MANCARD](http://WWW.BUSHMASTER.COM/MANCARD)

REM 00727

# **EXHIBIT H**

Message

**From:** Mark Eliason [meliason@bushmaster.com]  
**Sent:** 9/10/2009 4:28:05 PM  
**To:** Tom Tyler [ttyler@bushmaster.com]; Smith, Ryan [/O=REMINGTON/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=Smithrt]; DeSantis, John [/O=REMINGTON/OU=REMARMS1/cn=Recipients/cn=JohnDeSantis]  
**Subject:** RE: Advertising Concepts - Maxim

Me too.

**Mark Eliason**

*Distributor Sales Manager  
Bushmaster Firearms International, LLC  
Orders: 1-800-639-6411  
Office: 207-892-3594 ext. 211  
Fax: 207-892-2687*

---

**From:** Tom Tyler  
**Sent:** Thursday, September 10, 2009 12:18 PM  
**To:** Smith, Ryan; John DeSantis; Mark Eliason  
**Subject:** RE: Advertising Concepts - Maxim

Where we are talking a carbine, I like the man card quote the best.

**Thomas Tyler**

*Sales and Customer Service Manager  
Bushmaster Firearms International, LLC  
Office: 1-800-998-7928  
Fax: 207-892-8068*

---

**From:** Smith, Ryan [mailto:Ryan.Smith@remington.com]  
**Sent:** Thursday, September 10, 2009 11:42 AM  
**To:** John DeSantis; Mark Eliason; Tom Tyler  
**Subject:** Advertising Concepts - Maxim

John, Mark and Tom,

We have committed to running a Bushmaster ad in Maxim magazine in November. Attached are three concepts of the same execution. We will make some small tweaks to the logo size (make bigger), add in a little more red so it ties to the other brand elements that we have done for you, and change in "Professionals" for "the military" in the bottom line

Disregard the Jeep Wrangler promo at the bottom of the first concept – the agency is just showing how a contest could be featured in the ad. We aren't giving away a Jeep.

Anyway, I would like to get your read on which tag line you like the most. Also, we were thinking of using the M4-Type A.R.M.S. for the product image. Is that the right product, or should we use something else? We thought that a Patrolman's was a little too vanilla, but we don't want to show something tricked out that we don't actually have in our catalog. The A.R.M.S. seemed like the best choice.

Please let me know your thoughts...

**Ryan T. Smith**

**Brand Manager – LE/Tactical Firearms  
Remington Arms Co., Inc.  
Bushmaster Firearms Int'l, LLC**

**870 Remington Drive  
Madison, NC 27025  
336.548.8646 work  
336.453.4909 cell  
ryan.smith@remington.com**

Message was spam and virus filtered by Vircom Modusgate appliance

This e-mail message and any attachments to it may contain confidential, proprietary or legally privileged information. The recipient may not reproduce, copy or retransmit (whether electronically or otherwise) any such information. If you are not the intended recipient, you must not review, retransmit, copy, use or disseminate this e-mail or any attachments to it. If you have received this e-mail in error, please immediately notify us by return e-mail and delete this e-mail.

# **EXHIBIT I**

DECEMBER 6, 2011 · 11:25 AM

## Producing Facebook and Twitter Evidence in Native

Per all recent case law on the subject, including for instance [EEOC v. Simply Storage](#), social media evidence is considered Information (ESI) on the same par as email and electronic files. This means that the various eDiscovery provisions of The (FRCP) apply to social media. FRCP rule 34(b) requires that ESI be produced pursuant to a discovery request “in a form or maintained or in a form or forms that are reasonably usable” unless the requesting party specifies a different format at the seeking formal discovery and who invoke the Rule 34(b) specification at the time of the discovery request are typically inst be produced in native format with all metadata intact.

Without the right technology, producing social media evidence in native format with all metadata intact can be a difficult t spoliation liability as a worst case but not far-fetched scenario. Social media archive solutions typically have very limited e generally support native file and metadata export directly into review platforms. For this reason, [X1 Social Discovery](#) was d social media in its native format and to integrate with leading attorney review and production platform Concordance. In fa LexisNexis will be featuring X1 Social Discovery as part of their CLE webinar outlining best practices process and technolo evidence. The webinar speakers will be expert E-Discovery attorney Shannon Capone Kirk of Ropes & Gray and Don Swan Compliance Systems, Inc. Shannon will discuss the state of the law and recommended processes and Don will demonstrate workflow between X1 Social Discovery and Concordance. You can register for the CLE webinar at this link [here](#).

The LexisNexis webinar will highlight that social media evidence collected, preserved, searched, analyzed and tagged with quickly and seamlessly exported into Concordance while maintaining native file format and all metadata. We recently hear exported thousands of tagged social media items from X1 Social Discovery into Concordance in a manner of minutes. We b regarding scalable native file social media export is one of the many X1 Social Discovery features that are unique to the eDi attend the webinar to assess this claim yourself.

---

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[New FRCP Rule 37\(e\) Calls Out Importance of Social Media Evidence](#)

October 20, 2015

In "Case Law"

[Key Twitter Metadata Fields Lawyers and eDiscovery Professionals Need to Be Aware of](#)

October 6, 2011

In "Authentication"

[Judge Grimm's Important Guidance on Social Media Evidence](#)



# **EXHIBIT J**

**Redacted Pursuant to  
Protective Order**

# **EXHIBIT K**

**Redacted Pursuant to  
Protective Order**